

General Terms of Business for Music Purchasers

(Rev: 2007/06/12)

§ 1 Scope of Application

Business relations between Kazzong GmbH (referred to hereinafter as “KAZZONG”) and yourself (also referred to hereinafter as “the Customer”) shall be exclusively governed by the following General Terms of Business (“the Terms” or “this Agreement”) as revised and in force on the date of your order. KAZZONG shall only recognise the Customer’s divergent terms if KAZZONG has expressly agreed in writing to let such Customer’s terms apply.

§ 2 Audio Samples & Conditions for Downloading

KAZZONG provides “audio samples” to help you decide what to buy. An audio sample is part of a music recording which you can play back free of charge through the KAZZONG Service. You can play back as many audio samples as you want. However, you are not allowed to record, copy or download audio samples, nor may you assist others in doing so.

Downloading the music recordings offered by KAZZONG is contingent upon you registering free of charge at www.kazzong.com and providing the following full particulars: name, country of residence, email address. As a registered customer you are solely responsible for keeping your password secret and not making it accessible to third parties. You are liable for all acts done in conjunction with the use of your password.

You must be at least 18 years of age to conclude this Agreement in your own name and have yourself registered for using the KAZZONG Service. If you are under 18 but at least 13 years of age, you must show this Agreement to your parent or guardian, who must accept the Terms with a mouse-click in order to conclude this Agreement in your name. Children under the age of 13 cannot have themselves registered for this service, nor may a parent or guardian register on their behalf. When you click on the button, thus indicating that you accept this Agreement, you declare: (i) that you have read and understood this Agreement and acknowledge that it is binding; and (ii) that you are 18 or over and are concluding this Agreement either on your own behalf, or in the name of your child or of a minor whom you legally represent. If you are a parent or guardian concluding this Agreement in the interests of a minor, please note that you are entirely responsible for its use of the KAZZONG Service, including all and any payment or liability claims asserted on it. If you do not agree to any of the Terms (or are unable to follow them), then please do not click on the “agree” button and please refrain from trying to obtain access to the KAZZONG Service.

No entitlement to register for the KAZZONG Service exists. Any registration already effected may be revoked by KAZZONG at any time without giving reasons. In any such case, KAZZONG is entitled to immediately block the user name and the relevant password.

§ 3 Contract Closure

This Agreement is concluded on entering the personal data (user name and password) at www.kazzong.com or on Website that contains a KAZZONG player, on selecting the required music recording(s) in the KAZZONG player, and on confirming purchase by clicking on the “buy now” button.

This Agreement is brought about with KAZZONG, and it is subject to the availability of the selected music recording(s) and capacity to supply them. Once you have concluded the purchase, KAZZONG will send you a confirmation of purchase at the email address you have given. Your orders are stored by KAZZONG. If you lose the documentation of your orders,

please mail us (info[at]kazzong[.]com) and we will send you the data on your purchase transactions that is stored in our computer system.

§ 4 Right of Revocation

Pursuant to German Civil Code [BGB], Sect. 312d (4) nos. 1 and 2, right of revocation does not apply to downloads, since due to their nature they are not suitable for return. KAZZONG is obliged by law to draw attention to this fact.

§ 5 Copyrights & Other Protective Rights

The music recordings offered by KAZZONG and the music works on which they are based are protected under copyright law. It is only after buying, paying for and downloading a music recording that you (solely) acquire the right to use it exclusively for your own private purposes in accordance with German Copyright Act, Sect. 53. Thus you are not permitted in particular to copy or circulate the music recordings, to publicly perform them or to make them available to the public (e.g. in online exchanges, filesharing networks and suchlike).

All trademarks, corporate labels, advertising slogans, logos and/or other indications of origin and/or other content (e.g. photos, promotion texts, etc.) (jointly referred to hereinafter as "Labels & Content") appearing in or connected with the KAZZONG Service belong to KAZZONG and/or its contractual partners. You may not copy, reproduce or otherwise use these Labels & Content without prior written permission from the respective right owner.

KAZZONG respects third parties' intellectual property and protective rights, and expects you to do likewise. If you gain knowledge or suspect that any usage of the KAZZONG Service, the music recordings offered there and/or the materials accessible there constitutes a breach of copyright law, please notify us at info[at]kazzong[.]com.

If you infringe our rights or third-party rights when using the KAZZONG Service or its products and/or functions, or if KAZZONG has any well-founded suspicion that this may be the case, then KAZZONG may temporarily or permanently block your user account, notwithstanding any further rights to which KAZZONG is entitled by law or by contract.

§ 6 Purchase Prices

The applicable purchase prices are those in force at the time when the order is placed with KAZZONG. KAZZONG may at any time alter the purchase prices quoted for its music recordings in the KAZZONG Service. All the purchase prices given in KAZZONG include value added tax [*Mehrwertsteuer*] at a rate of 19%. The respective purchase prices given by KAZZONG do not include the costs charged to you by your Internet provider for download times or download volumes.

§ 7 Payment

KAZZONG accepts payments from your ClickandBuy account kept with the paying agent ClickandBuy Ltd. KAZZONG may obtain in advance a provisional promise to pay from ClickandBuy for a sum totalling the value of the order. Amounts charged to your ClickandBuy Account are then debited at the time of purchase or shortly afterwards. KAZZONG recommends that you print out all your payment transaction data as well as these Terms and keep them along with the documentation of your purchase deal. If you are responsible for any payment not being made, then KAZZONG will make a renewed attempt to charge the amount, plus a flat-rate fee for the costs incurred by chargeback or non-payment. If the outstanding amount is still not settled after a renewed demand for payment or a renewed direct debit attempt, then KAZZONG shall authorise a third party to assert the demand

(dunning procedure) and to effect claims management (collection, court action, enforcement).

§ 8 Responsibility, Liability

You are yourself responsible for any hardware, system requirements and/or software you use and for the entire costs and expenses incurred (a) for connecting with and using the Internet, and/or (b) for using any functions and/or products in the KAZZONG Service.

Once you have acquired music recordings, it is your responsibility to prevent their loss, destruction or damage. In the event of any loss, destruction or damage, KAZZONG shall not be liable towards you.

The KAZZONG Service, its functions and the music recordings (jointly referred to hereinafter as “the Products”) are provided as they are, without any kind of guarantee, assurance or declaration of quality being given by KAZZONG, its authorised representatives, employees, parent company, subsidiaries, associates, licensors, contractual partners and/or suppliers. KAZZONG reserves the right to alter or discontinue the KAZZONG Service (or any part of it) at any time.

KAZZONG accepts no liability and gives no guarantee or assurance that a specific CD burner or portable device is compatible with the client, or that a CD burned using the KAZZONG client will function on all CD players. It is your own responsibility to ensure that your systems function properly with the KAZZONG client.

KAZZONG’s liability in connection with usage of the KAZZONG Service and/or the downloading of music recordings is limited to damage sustained due to wilful or grossly negligent conduct, or based on a breach of cardinal duty.

In cases of damage arising from a negligent breach of a cardinal duty, liability for indirect losses and atypical consequential damage is excluded. In all other cases, it is limited to the average losses typical for the type of contract. Compulsory liability under product liability law and/or for personal injury remains unaffected.

§ 9 Data Protection

Insofar as you do not specifically agree to your personal data being further processed and used, it shall be stored, processed and used by KAZZONG exclusively for the purpose of enabling you to obtain and use the music recordings and for settling payments.

Personal data means particulars such as e.g. name and address, communication links such as telephone, telefax or email, banking details and credit-card number, and user data such as member name, password and IP address.

On concluding the contract, you agree to us disclosing your personal data to third parties – such as external service providers – solely for the above purposes, insofar as handling the transaction, dunning, claims management and prosecuting copyright violations so require. We guarantee that the data will be treated with the utmost confidentiality and will only be disclosed to third parties to the extent necessary.

Your data will only be stored as long as is permitted by law. If transmitting your data to third parties is not allowed by law, it shall only be disclosed with your express consent. Our data protection practice complies with the Federal Data Protection Act [BDSG] and the Tele-Service Data Protection Act [TDDSG].

In all other respects, our data protection provisions apply.

We may use temporary session cookies or persistent cookies. With the aid of the information compiled, KAZZONG is able to analyse use patterns and structures in order to optimise its service for customers.

§ 10 Amendments to the Terms

KAZZONG may alter these Terms from time to time and provide a copy of the amended Agreement at www.kazzong.com. Insofar as you may reasonably be expected to accept this, this will be done without notification. If you do not agree to the Agreement in its amended form (or are unable to follow it), the only remaining possibility is for you to discontinue using the KAZZONG Service. If you continue using the KAZZONG Service after an amendment to the Agreement has been published and your attention has been drawn to it, then this shall be deemed acceptance of the amended Agreement.

§ 11 Governing Law, Venue

If any of the provisions of these Terms are inoperative, this shall not affect the validity of the rest of the contract. German law applies, excluding CISG. If the Customer is a registered merchant, then exclusive venue for all and any present and future claims arising from the business relationship and for claims asserted in dunning procedure shall be at the location of KAZZONG's registered place of business.